

§ 122.38

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(b) *Notice.* The aircraft commander or agent shall give written notice to the Customs office at:

(1) The intended place of unloading; and

(2) The place of preclearance.

(c) *Time of notice.* Notice shall be given within 7 days of the unscheduled or unintended landing unless other arrangements have been made in advance between the carrier and the port director.

§ 122.38 Permit and special license to unlade and lade.

(a) *Applicability.* Before any passengers, baggage, or merchandise may be unladen or laden aboard on arrival or departure of an aircraft subject to these regulations, a permit and/or special license to unlade or lade shall be obtained from Customs.

(1) *Permit to unlade or lade.* A permit is required to obtain Customs supervision of unloading and lading during official Customs duty hours.

(2) *Special license to unlade or lade.* A special license is required to obtain Customs supervision of unloading and lading at any time not within official Customs duty hours (generally, during overtime hours, Sundays or holidays).

(b) *Authorization required.* A permit or special license shall be required for each arrival and departure unless a term permit or special license has been granted. No permit or special license shall be issued unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter.

(c) *Term permit or special license.* A term permit or special license may be issued covering all arrivals and departures during a period of up to one year, providing local arrangements have been made to notify Customs before services are needed. The notice shall specify the kinds of services requested, and the exact times they will be needed. No term permit or special license shall be issued, and any term permit or special license already issued shall be revoked, unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter. In addition, a term permit or special license to unlade or lade already issued will not be applicable to

any inbound or outbound flight, with respect to which Customs and Border Protection (CBP) has not received the advance electronic cargo information required, respectively, under § 122.48a or 192.14(b)(1)(ii) of this chapter (see paragraph (g) of this section).

(d) *Procedures.* The application for a permit and special license to unlade or lade shall be made by the owner, operator, or agent for an aircraft on Customs Form 3171, and shall be submitted to the port director for the airport where the unloading and lading will take place. The application shall be accompanied by a bond on Customs Form 301, containing the bond conditions set forth in subpart G of part 113 of this chapter, or a cash deposit, unless this requirement is waived under paragraph (e) of this section.

(e) *Waiver of bond.* To insure prompt and orderly clearance of the aircraft, passengers, baggage, or merchandise, the port director may waive the requirement under paragraph (d) of this section that either a bond or a cash deposit be made, if he is convinced the revenue is protected and that all Customs requirements are satisfied.

(f) *Automatic renewal of term permit or special license.* Automatic renewal of a term permit or special license may be requested by the owner, operator, or agent for an aircraft when a bond on Customs Form 301 containing the appropriate bond conditions set forth in subpart G of part 113 of this chapter is on file. The request shall be for successive annual periods which conform to the automatic renewal periods of the bond. An application will be approved by the port director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the port director shall notify the requestor, and shall state the reasons for the denial. To apply for automatic renewal, item 10 on Customs Form 3171 shall be changed by adding the following words after the period of time indicated: “And automatic annual renewal thereof for so long as the bond is renewed and remains in effect.”

(g) *Advance receipt of electronic cargo information.* The CBP will not issue a permit to unlade or lade cargo upon arrival or departure of an aircraft, and a term permit or special license already

issued will not be applicable to any inbound or outbound flight, with respect to which CBP has not received the advance electronic cargo information required, respectively, under §122.48a or 192.14 of this chapter. In cases in which CBP does not receive complete cargo information in the time and manner and in the electronic format required by §122.48a or 192.14 of this chapter, as applicable, CBP may delay issuance of a permit or special license to unlade or lade cargo, and a term permit or special license to unlade or lade already issued may not apply, until all required information is received. The CBP may also decline to issue a permit or special license to unlade or lade, and a term permit or special license already issued may not apply, with respect to the specific cargo for which advance information is not timely received electronically, as specified in §122.48a or 192.14(b)(1)(ii) of this chapter.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 94-2, 58 FR 68526, Dec. 28, 1993; CBP Dec. 03-32, 68 FR 68170, Dec. 5, 2003]

Subpart E—Aircraft Entry and Entry Documents; Electronic Manifest Requirements for Passengers, Crew Members, and Non-Crew Members Onboard Commercial Aircraft Arriving In, Continuing Within, and Overflying the United States

§ 122.41 Aircraft required to enter.

All aircraft coming into the United States from a foreign area must make entry under this subpart except:

- (a) Public and private aircraft;
- (b) Aircraft chartered by, and transporting only cargo that is the property of, the U.S. Department of Defense (DoD), where the DoD-chartered aircraft is manned entirely by the civilian crew of the air carrier under contract to DoD; and
- (c) Aircraft traveling from airport to airport in the U.S. under subpart I, relating to residue cargo procedures.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by CBP Dec. 03-32, 68 FR 68170, Dec. 5, 2003]

§ 122.42 Aircraft entry.

(a) *By whom.* Entry shall be made by the aircraft commander or an agent.

(b) *Place of entry—(1) First landing at international airport.* Entry shall be made at the international airport at which first landing is made.

(2) *First landing at another airport.* If the first landing is not at an international airport pursuant to §§122.34 or 122.35, the aircraft commander or agent shall make entry at the nearest international airport or port of entry, unless some other place is allowed for the purpose.

(c) *Delivery of forms.* When the aircraft arrives, the aircraft commander or agent shall deliver any required forms to the Customs officer at the place of entry at once.

(d) *Exception to entry requirement.* Except for flights to Cuba (provided for in subpart O of this part), an aircraft of a scheduled airline which stops only for refueling at the first place or arrival in the U.S. shall not be required to enter provided:

- (1) That such aircraft departs within 24 hours after arrival;
- (2) No cargo, crew, or passengers are off-loaded; and
- (3) Landing rights at that airport as either a regular or alternate landing place shall have been previously secured.

§ 122.43 General declaration.

(a) *When required.* A general declaration, Customs Form 7507, shall be filed for all aircraft required to enter under §122.41 (Aircraft required to enter).

(b) *Exception.* Aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. need not file a general declaration to enter. Instead, an air cargo manifest (see §122.48) may be filed in place of the general declaration, regardless of whether cargo is on board. The air cargo manifest shall state the following:

I certify to the best of my knowledge and belief that this manifest contains an exact and true account of all cargo on board this aircraft.

Signature _____
(Aircraft Commander or Agent)